

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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HARRY BURDICK,

Case No. 2:15-CV-1131 JCM (NJK)

**Plaintiff(s),**

## ORDER

V.

STATE OF NEVADA DEPARTMENT OF  
CORRECTIONS, et al.,

Defendant(s).

Presently before the court is Magistrate Judge Koppe's report and recommendation that plaintiff Harry Burdick's amended complaint be dismissed with prejudice. (ECF No. 11). No objections have been filed to the report and recommendation.

This court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). If a party fails to object to a magistrate judge’s report and recommendation, however, the court is not required to conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985).

Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge’s report and recommendation where no objections have been filed. *See United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the district court when reviewing a report and recommendation to which no objections were made); *see also Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003) (reading the Ninth Circuit’s decision in *Reyna-Tapia* as adopting the view that district courts are not required to review “any issue that is not the subject of an objection.”).

1            Nevertheless, this court finds it appropriate to engage in a *de novo* review to determine  
2 whether to adopt the recommendation of the magistrate judge.

3            This court concludes that the magistrate judge appropriately determined that the remaining  
4 defendant in this case, Sergeant Zenner, “is immune from liability for carrying out the parole  
5 board’s facially valid order regarding Plaintiff’s release” and that “the Eleventh Amendment of  
6 the United States Constitution bars claims against state officials in their official capacity.” (ECF  
7 No. 11 at 2–3) (citing *Brown v. California Dep’t of Corr.*, 554 F.3d 747, 751 (9th Cir. 2009); *Pena*  
8 *v. Gardner*, 976 F.2d 469, 472 (9th Cir. 1992)).

9            Accordingly,

10            IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the report and  
11 recommendation of Magistrate Judge Koppe (ECF No. 11) be, and the same hereby are,  
12 ADOPTED in their entirety.

13            IT IS FURTHER ORDERED that plaintiff’s amended complaint (ECF No. 8) be, and the  
14 same hereby is, DISMISSED, with prejudice.

15            The clerk shall enter judgment accordingly and close the case.

16            DATED May 26, 2017.

17              
18            UNITED STATES DISTRICT JUDGE